DISESTABLISHMENT

AND

DISENDOWMENT

What are they?

BY

EDWARD A. FREEMAN, D.C.L., LL.D.

REGIUS PROFESSOR OF MODERN HISTORY IN THE
UNIVERSITY OF OXFORD

REPRINTED WITH ADDITIONS FROM THE
'PALL MALL GAZETTE'

SECOND EDITION

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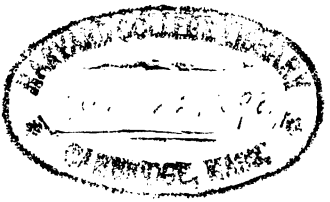

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PREFACE TO THE SECOND EDITION.

IT is ten years since these papers first appeared in the columns of a newspaper, and were presently reprinted in the shape of a small book. The book has now been for some while out of print. But the lapse of time seems hardly to have changed the position of the controversy. The assertion of the same plain facts seems as much in place now as it was then. It is hardly needful to say that the papers were not written at first, and that they are not reprinted now, to support the practical conclusion of either side in a dispute on which no judgement is given on either side. Their object, then and now, is simply to clear away confusions on both sides, and to enable both sides to discuss more easily the really simple ground of controversy between them. The question in truth comes to this; A great change in the law is proposed, a change which, like any other change, it is any time within the power of Parlia-

ment to make. Are there, or are there not, good grounds for making that change? To that question these papers give no answer; their object is the humbler one of clearing the ground for their discussion. They appear as they did in the first edition with only a few verbal changes. In two or three places the meaning has been made clearer; in two or three places a few words have been changed where things were spoken of which were present in 1874 but which are past in 1885.

SOMERLEAZE, WELLS,
8th January 1885.

DISESTABLISHMENT

AND

DISENDOWMENT.

I.

WE have lately heard with one ear that the disendowment of the Irish Church has as yet brought no funds to the purposes to which its surplus revenues are to be applied, and we have lately heard with the other ear that the cry for the disestablishment and disendowment of the English Church is again rising as loudly as ever. This then is not a bad time to stop and ask what the words "disestablishment" and "disendowment" really mean. And this question involves the earlier one, What is the "establishment" and the "endowment" of which "disestablishment" and "disendowment" are the opposite? The answer to these questions involves an examination of one or two common confusions by which the subject is often clouded over.

First of all, there is a lurking unwillingness in the disputants on both sides, as indeed there is in

most speakers on all subjects, to acknowledge the simple principle that, in every political community, the supreme power of the State, wherever that supreme power may be placed, may do whatever it thinks good. We say this, of course, with the necessary limitations, both physical and moral. A law may be, as we hold, unjust; this means that, if we were members of the assembly in which that law was passed, we should vote against it. Or, at the outside, it means that we should deem it our duty to resist the law in obedience to some supposed higher law. This is all; a man may suffer what he thinks a wrong at the hands of the supreme power; but that wrong is something wholly different from a wrong done by a private person. The difference is not merely that redress may be had in the case of a wrong done by a private person, while it cannot in the case of a wrong or alleged wrong done by the supreme power. For it may happen that a private man may by some act, as for instance by what we think an unjust will, do us what we hold to be a wrong, but for which there is no redress. All acts of the supreme power come under this last head. However much we may disapprove of them and suffer from them, they answer, at the worst, not to the act of the burglar or the forger, but to the act of the father who bequeaths something which he has a right to bequeath, but bequeaths it in a way which some of his children think unjust. Every act of the supreme power is in its own nature lawful. The

form of the supreme power differs in different countries. In England it is King, Lords, and Commons acting together. In England then the act of the supreme power must take the form of an Act of Parliament. An Act of Parliament may be unjust, but it is unjust in the same sense as the unjust will of the father, not in the same sense as the act of the burglar or forger, which is unlawful as well as unjust. An Act of Parliament may be unjust, but it cannot be unlawful. We mean, for instance—to take the extremest case of all—that the most unjust bill of attainder passed by a Tudor Parliament, though it was a crime in every member who voted for it and in the King who gave his assent to it, was a perfect justification for the Sheriff, the executioner, and any one else who acted ministerially in carrying it out. In this sense the State may do anything and deal with anything; and, as it may deal with anything, so it may deal with Churches and with all that belongs to them. Disestablishment and disendowment are therefore acts which may be either just or unjust. If they cannot be shown to be for the common good of the nation, they are unjust acts; but they are acts which, if done by the supreme power, are perfectly lawful. They are acts which it is open to King, Lords, and Commons to do, whenever they think good.

It is necessary to lay down this principle, truism as it may sound, because it is practically set aside by the disputants on both sides, whenever the ques-

tion of disestablishment and disendowment is argued. The one true principle is that the State, meaning by the State, King, Lords, and Commons, has the same right to deal with the Church which it has to deal with anything else. This principle is openly denied by those who raise the cry of "sacrilege" and the like, and who say in effect that the Church and all that belongs to it is something too sacred for the State to meddle with at all. But the principle is also less openly set aside by those disputants on the other side who rest the right of the State to meddle with Church property and the like, not on the general right of the State to do anything, but on some supposed special right to deal with Church property which it has not in regard to other property. One side says that the State may meddle with Church property, because it is "national property;" the other side says that the State may not meddle with Church property, because it is something too sacred to be meddled with. Yet it is perfectly certain, on the one hand, that Church property is not national property in the sense which the disputants mean, and it is equally certain, on the other hand, that no power can so tie up or dedicate anything as to bar the right of the supreme power to deal with it. Both these misconceptions on opposite sides must be got rid of before the question can be fairly argued.

The true way of looking at the matter is simply this. The State has the same power to deal with Church property which it has to deal with any other

property, neither more nor less. Whenever the State deems that the rights either of individuals or of corporations ought to give way to the general interest of the whole community, it has a right to decree that they shall give way to it. We talk of the sacredness of private property; and against everything else it is sacred; but against an Act of Parliament it has no sacredness at all. Every day we see private property confiscated for railways or public improvements of any kind. We use the word "confiscated" in its proper sense, not in the sense in which it has been often used by writers and speakers who wished to put a measure in a bad light by giving it what they thought an ugly name. The word "confiscation" has come to have an ugly sound, because it is in no case a pleasant process, and because in vulgar use the word has got a wrong meaning. "Confiscation" is vulgarly used to mean "robbery." A man has been known to complain that another man has "confiscated his hat." Then of course, when a word has once got this kind of meaning, it tells, in Parliament or elsewhere, to say that a certain measure is a "measure of confiscation." But the word has a meaning of its own, a meaning which is wanted in this discussion, and, for the present purpose, it must be recovered from the modern abuse of it to be used in its proper meaning. Confiscation is an act of the State and of the State only. It is the taking of property by the State. It is a perfectly colourless word, which does

not rule whether such taking be just or unjust. When a magistrate inflicts a fine, he does an act of confiscation. So, when a man's land is taken from him by Act of Parliament because it is wanted for a railway, his land is confiscated. To be sure, he gets compensation; but the land may be taken from him quite against his will, and the compensation may be one which he thinks quite inadequate. It is plain that the power which takes away the land and gives compensation might also, if it chose, take away the land without giving any compensation. The land is equally taken, equally confiscated, in either case. It is simply a feeling of natural justice which orders that, when it is taken, the owner shall have something given to him instead. An Act of Parliament which should take away a man's land without compensation would be unjust; that is to say, every well-disposed member would vote against it. But it would be lawful; that is to say, no blame would attach to those who carried it out and acted upon it.

The one sound principle then is that the State may, when it sees good reason for doing so, take or confiscate any property of any kind. From this rule property given to ecclesiastical purposes can claim no exemption. It is liable, on just and sufficient cause, to be taken and applied to some other purpose, and of such just and sufficient cause the State itself is the only judge. The power of the State to deal with Church property is nothing special

with regard to that kind of property; it is simply one branch of its right to deal with property of every kind. But it will be asked, Is there not a wide difference between private property and corporate property? Has not the State a right to deal with corporate property which it has not to deal with private property? In strictness there is no difference as to the right itself, but there is a difference of great importance as to the exercise of that right. That is to say, the cases in which it is just and expedient to meddle with corporate property come much oftener than the cases in which it is just and expedient to meddle with private property. In a settled state of things, the State is hardly ever called on to meddle with private property, except either at the request of those concerned or in certain well-understood cases, like taking land for a railway. The cases where it is just and expedient to meddle with corporate property, temporal or ecclesiastical, come much oftener. But the inherent right is the same in both cases, and of the justice and expediency of the act in either case the State itself is the only judge. And when we talk of the wide difference between private property and corporate property, it is well to remember that, if a corporation, sole or aggregate, is an artificial creation of the law, the tying up of property in tail, or indeed any control exercised by a man over his goods after he is dead, is an artificial creation of the law just as much.

This is the true ground on which to justify alien-

ations or rearrangements of ecclesiastical property by Act of Parliament, or by the supreme power of any country, whatever that supreme power may be. Church property is not "national property," except in the same sense in which all property is national property. It is not "national property" in the only strict sense of those words. It is not *folkland*, *ager publicus*, property of which the nation is not only sovereign but landlord. It ceased to be so whenever it passed into the hands of the ecclesiastical corporations or into the hands of those who founded the ecclesiastical corporations. For here comes in another confusion. People talk as if "Church property" was the property of one vast corporation called "the Church." In truth it is simply the property of the several local churches, the ecclesiastical corporations, sole and aggregate, bishops, chapters, rectors and vicars, or any other. The Church of England, as a single body, has no property; the property belongs to the church of Canterbury, the church of Westminster, the church of Little Peddlington, or any other. This phrase is one of the commonest in old history and records; yet it has been misunderstood. The King by his coronation oath binds himself to respect the rights of the "churches" in his kingdom. That means that he will not unlawfully disturb the property, the patronage, or any other right lawfully held by the Archbishop of Canterbury, the Dean and Chapter of Westminster, the Rector of Little Peddlington, or

any other ecclesiastical corporation, sole or aggregate. But this phrase has sometimes been so misunderstood that, in the debates eighteen years back on the disestablishment of the Irish Church, a distinguished lawyer argued that, as the King bound himself to protect, not one "Church," but "churches" in the plural, it meant that he bound himself to protect the rights of the Church of Ireland as well as those of the Church of England. We must fully take in the fact that Church property is not the property of one vast body, but of various local bodies scattered up and down the country. These local bodies, forming corporations sole or aggregate, hold estates which have been acquired at sundry times and in divers manners from the first preaching of Christianity to the English till now. They are held by all manner of tenures, from the oldest to the newest. One ecclesiastical person or body may hold a piece of land granted by King Æthelberht; another may have a stipend from the Ecclesiastical Commissioners which was paid for the first time last quarter-day. The tenure may be any kind of tenure known to the law. But all this does not make the property of these corporations "national property" in the sense in which the Crown lands and the money which comes in from the taxes are national property. Nor, as we have before now seen it put, is the Church "trustee for the nation"—surely the oddest notion of *cestui que trust* to be found anywhere. The ecclesiastical corporations hold their property by the

same right as any other holders of property. If some of it was got ages ago by corrupt means, so a great deal of private property has been got by corrupt means. If one king or other powerful man gave lands to a bishopric or a monastery; another, or very often the same, gave lands to his favourites or his mistresses. We need not ask what was the motive of the first grant in either case, provided the present owner can show a legal title. That legal title is good in both cases against any power except an Act of Parliament. An Act of Parliament may set aside either. The only difference is that the cases in which it is right and expedient for Parliament to upset private titles to property are much less common than the cases in which it is right and expedient for Parliament to upset corporate titles.

In short, if we wish to argue this question on its true ground, we must put out of sight the popular notion that, at some time or other, the State determined to make a general national endowment of religion. And we must also put out of sight the other popular notion that, at some time or other, the State took certain funds from one religious body and gave them to another. Neither of these things ever happened. If there ever was a time when the State determined on a general national establishment of religion, we must suppose it to have been at the time of the conversion of the English nation to Christianity. But the conversion of England took place gradually, when there was no such thing as an

English nation capable of a national act. The land was still cut up into small kingdoms, and Kent had been Christian for some generations at a time when Sussex still remained heathen. If any act which could be called a systematic establishment and endowment of the Church ever took place anywhere, it certainly took place in each particular kingdom for itself, not in England as a whole. The churches of Canterbury and Rochester undoubtedly held lands while men in Sussex still worshipped Woden. But it would be an abuse of language to apply such words as systematic establishment and endowment to the irregular process by which the ecclesiastical corporations received their possessions. The process began in the earliest times, and it has gone on ever since. And nothing was done systematically at any time. This king or that earl founded or enriched this or that church in which he felt a special interest; and from this it naturally followed that one church was much more richly endowed than another. The nearest approach to a regular general endowment is the tithe, and this is not a very near approach. The tithe can hardly be said to have been granted by the State. The state of the case rather is that the Church preached the payment of tithe as a duty, and that the State gradually came to enforce the duty by legal sanctions. But it is only by the Tithe Commutation Act that tithe has been put wholly on the same level as other property. As long as tithe could be recovered by

a process in an ecclesiastical court, there was still something of its original nature hanging about it. The theory of the ecclesiastical courts is that they act *pro salute animæ*, for the soul's health of the person brought before the court. The aim of their punishment is the reformation of the offender. In theory the tithe-stealer was brought before the court, not that the defrauded rector might recover his property, but that the man who had sinned by not paying his tithe might be brought to a better frame of mind. So with regard to the church-rate, which was a payment for ecclesiastical purposes, though it was not in any strict sense Church property or property at all. Here too the old process was through the ecclesiastical court, with the same theoretical object, the reformation of the defaulter. In neither case did the State strictly make a grant; it rather enforced the decree of the Church by the secular arm. And as to tithe, it should also be remembered that, though the duty of paying tithe was taught very early, yet for a long time the tithe-payer had a good deal of choice as to the particular ecclesiastical body to which he would pay his tithe. Nothing was more common than an arbitrary grant of tithe to this or that religious house. In short, the ecclesiastical endowments of England have grown up, like everything else in England, bit by bit. A number of ecclesiastical corporations have been endowed at all manner of times and in all manner of ways; but there was no one particular moment when the State

of England determined to endow one general religious body called the Church of England.

And if there was no one particular moment when, as many people fancy, the State endowed the Church by a deliberate act, still less was there any moment when the State, as many people fancy, took the Church property from one religious body and gave it to another. The whole argument must assume, because the facts of history compel us to assume, the absolute identity of the Church of England after the Reformation with the Church of England before the Reformation. We are not talking theology; it is quite possible to argue, either from the Roman Catholic or from the Protestant side, that the Reformation really made so great a theological change that the religious body which existed after those changes cannot be said to be the same religious body as that which existed before them. With this theological argument, from whichever side it comes, we have nothing whatever to do. Our position is a much humbler one. It is simply that, whether the religious body did or did not so change theologically as no longer to be the same, yet, as a matter of law and history, as a matter of plain fact, there was no taking from one religious body and giving to another. We must remember that there was not in England, as some people seem to think and as there really was in some foreign countries, some one act done at a definite time called the "Reformation." Under the name of the Reformation we jumble together a

great number of changes spread over many years. In popular language the Reformation sometimes means the throwing off of the authority of the Pope, sometimes the suppression of the monasteries, sometimes the actual religious changes, the putting forth of the English Prayer-Book and the Articles of Religion. Here are three sets of changes, all of which are undoubtedly connected as results of a general spirit of change; but, as a matter of fact, they were acts done by different people at different times, and those who, at any stage, wrought one change had no thought that the others would follow. The final result might be that theological continuity was broken, but no act was done by which legal and historical continuity was broken. Any lawyer must know that, though Pole succeeded Cranmer and Parker succeeded Pole, yet nothing was done to break the uninterrupted succession of the archbishopric of Canterbury as a corporation sole in the eye of the law. This is all that we mean; in the sixteenth century, as at several other times before and since, laws were made to which the holders of ecclesiastical benefices had to conform under pain of losing those benefices. As a matter of fact, the great mass of their holders did conform through all changes. There was much less than people commonly think even of taking from one person and giving to another; and the general taking from one religious body and giving to another, which many people fancy took place under Henry the Eighth or

Elizabeth, simply never happened at all. In this last statement we wish to be thoroughly well understood. We are not wishing in any way to undervalue the greatness either of the direct theological change or of the indirect changes of all kinds which followed on the long series of events known as the English Reformation. In a general view of history those changes cannot be rated too highly. They were changes far greater than those who made them dreamed of. But we are dealing with a dry matter of fact and of law. There was no one particular moment, called the Reformation, at which the State of England determined to take property from one Church or set of people and to give it to another. As there was no systematic endowment in the sixth or seventh century, still less was there any systematic disendowment and re-endowment in the sixteenth.

Disendowment then simply means taking away or confiscating the property of ecclesiastical corporations by that authority which alone has the right to confiscate any property, the supreme authority of Parliament. This right of disendowment—as of doing anything—is inherent in the supreme power. In our own country it has been exercised over and over again in all ages, but most notably and on the greatest scale in the reigns of Edward the Second, Henry the Fifth, Henry the Eighth, Edward the Sixth, Elizabeth, and Victoria. And it is only out of deference to possible prejudices that we do not add the Long Parliament to our list. For though, under the Long

Parliament, the bishops and chapters were suppressed, and their lands were confiscated, yet the continuity of the parochial incumbents was not broken; their property was not confiscated, nor were the rights of patrons taken away. In this way the temporary suppression of bishops and chapters in the seventeenth century is analogous to the great suppression of monasteries under Henry the Eighth, and to the suppression of colleges and chantries under Edward the Sixth. In all these cases some ecclesiastical corporations, sometimes a whole class of ecclesiastical corporations, sometimes, as in the last case of all, all the ecclesiastical corporations within one part of the kingdom, were suppressed, and their property was applied as the supreme power thought good. The suppressions under Henry the Fifth and under Victoria, the suppression of the alien priories and that of all ecclesiastical corporations in Ireland, stand out among all the others for the purity of motive which led to the confiscation and for the wise purposes to which the confiscated property was applied. But the legal process is the same in all. We may think that under Henry the Fifth and under Victoria the confiscated property was well applied, and that under Henry the Eighth it was badly applied; but that is not to the purpose; the right is the same in either case. In all these cases alike the supreme power has freely exercised a right which is inherent in it as the supreme power, the right to deal with ecclesiastical property as it may deal with anything

else. Ours is a land of precedent, and here are precedents enough.

Disendowment then simply means the confiscation of the property of ecclesiastical corporations. The present cry is to do to all ecclesiastical corporations of all kinds throughout the country what at earlier times was done to ecclesiastical corporations of particular kinds throughout the country, what in our own day has been done, or rather is now doing, to all ecclesiastical corporations of all kinds throughout one part of the country. The power of Parliament to do so is as clear in the one case as in the other. The only question is whether as good grounds for exercising that power can be shown in the present case as could be shown in the other cases. Are there as good reasons for disendowing the Church of England—that is, for confiscating the property of all the ecclesiastical corporations in England—as there were for confiscating the property of the alien priories under Henry the Fifth, or for confiscating the property of all the ecclesiastical corporations in Ireland? The supporters and the enemies of disendowment must be content to meet on this simple issue. The question must not be confused by talk about "national property" on the one hand, or about "sacrilege" on the other. It is simply a question whether a great and violent change, but a change which the supreme power has a perfect right to make, is or is not called for in the general interest of the country.

The question of disendowment is comparatively simple. It means taking away, as endowment means giving. All that is wanted is clearly to understand the nature of the thing which has been given, and which it is proposed to take away. What is meant by disestablishment is a much harder question, because what is meant by establishment is a much harder question. It seems however that there may be disestablishment without disendowment, while no one has proposed to have disendowment without disestablishment. What establishment and disestablishment really are we must now go on to examine.

II.

WHAT is an Established Church? The popular notion seems to be that there was some time when two distinct bodies, called the State and the Church, made a kind of bargain together. Sometimes people seem even to think that at this time, whenever it was, the State picked out one particular religious body to make the bargain with, when it might conceivably have chosen some other religious body for the purpose. The State is looked on, on the one hand, as being deeply convinced of the importance of religion to the national welfare, deeply convinced of its own duty to promote the religious instruction of the people, and to provide means for the public exercise of some kind of religious worship. At the same time it is looked on as feeling that it would not exactly do to leave the ministers of religion to do in all things just as they may think good. Filled with these sentiments, the State makes its bargain with the Church, by which bargain the Church receives from the State a special protection, while, on the other hand, it has to submit to a large measure of State control from which, if it refused the terms, it might remain

free. The State accordingly proceeds to "establish" the Church, to make it in a special way the Church of the nation, while, alongside of the Church so "established," all other religious bodies hold a less dignified and favoured position. Those other religious bodies may hold very different positions in different times and places. They may perhaps be persecuted, perhaps merely tolerated, perhaps fully protected; but in no case do they hold the same close connexion with the nation and its government which is held by the religious body which is selected for establishment. The Church undertakes to supply religious instruction and the forms of religious worship for the nation. The State enables the Church to do so by means of endowments and special privileges. The ministers of the Established Church hold a definite legal position which does not belong to the ministers of other religious bodies. In return for these favours the Church gives up a certain portion of its natural freedom. All the relations between the two bodies go on the principle that each measure of favour should be purchased by a certain measure of submission to State control. The State exercises a power of legislating for the Established Church in a way in which it does not think of legislating for other religious bodies. Other religious bodies can settle their own forms and discipline as they please; they can legislate as they will for their own members —their own members having of course the remedy in their own hands by withdrawing from any religious

body whose internal legislation they dislike. But the ecclesiastical assembly of the Established Church cannot even enter on any business without a licence from the Crown; its decrees are not binding on the clergy themselves till they have received the royal assent, nor on the laity till they are further confirmed by Parliament. Meanwhile, Parliament can legislate in any ecclesiastical matter; it can alter ecclesiastical ceremonies and ecclesiastical discipline, without consulting the ecclesiastical assembly at all. But to counterbalance all this, the ecclesiastical order is recognized as an estate of the realm, and certain of its chief ministers have official seats in the Legislature, with votes, not only on ecclesiastical matters, but on all matters which come under discussion. To balance back again, these great officers of the Church are, if not directly appointed by the Crown, yet recommended to the ecclesiastical electors in a way which they cannot refuse to obey. In the same spirit, many smaller ecclesiastical offices are in the gift of the Crown and of other lay patrons, by a right which the law distinctly makes a matter of temporal property. So there are ecclesiastical courts, with a jurisdiction known to the law, whose sentences carry with them temporal consequences and are enforced by the temporal power. But, on the other hand, every ecclesiastical sentence is liable to an appeal to a court which is nominated by the Crown, and which may consist wholly of laymen. Every minister of the Church, as such, has certain privileges,

certain exemptions, balanced in the same proportion by certain disabilities. Lastly, the Sovereign himself must be in communion with the Established Church, and he is, in theory at least, admitted to the royal office with ecclesiastical ceremonies. On the other hand, he is Supreme Governor of the Church, supreme in all causes, ecclesiastical as well as civil, and clothed moreover, in popular belief, with a kind of personal authority in ecclesiastical matters which a lawyer would not find it easy to define.

Now all this by no means unfairly expresses the actual relations between Church and State in England, that is to say, it by no means unfairly expresses the actual state of English law as to ecclesiastical matters. But, as it has just been put, as it commonly is put, the statement involves the delusion that there are two distinct bodies called Church and State, which are capable of bargaining with one another. But the State must mean the nation; the Church must mean either the whole nation, where the nation is of one mind in religious matters, or else part of the nation, where there are several religious bodies in the same nation. The common way of talking about Church and State comes from days when people fancied that the Government of a nation was itself the nation, and that the clergy or other ministers of a Church were themselves the Church. A king with his council or cabinet might bargain, and sometimes has bargained, with a pope, a convocation, a bench of

bishops; but a nation and a Church—in the true meaning of the word Church, taking in all the members of the religious body and not only its office-bearers—cannot bargain with one another. We must always bear in mind that the clergy are not the Church, an error which is to some extent fostered by some unavoidable ways of speaking. "Church property," for instance, that is, property given for ecclesiastical purposes, will be mainly—though not wholly—the property of the clergy as the office-bearers of the Church. "Church discipline" too will have mainly to deal with the acts of the clergy. But in the whole dispute it must be borne in mind that the clergy are no more the Church than the government is the nation, or than the officers of an army are the army itself.

It will be well then to get rid of the notion of two distinct bodies, Church and State, capable of bargaining with each other. It will be well for the words "relations of Church and State" to substitute some such words as "legislation on ecclesiastical matters." And here we have first of all to get rid of the notion that there was some one great act of legislation which settled such matters once for all. We have in short to get rid of the notion that there was some time or other when the Church was "established" by a deliberate and formal act. There have been times and places when a Church really has been established by an act of this kind. The re-establishment of Christianity in

France is a case in point. Then the civil power did deliberately establish a form of worship; and the establishment took the form of an agreement, a *concordat*, between the supreme power of the French nation and the head of that religious body a branch of which was to be re-established in France. Here then there was something which may not unfairly be called a bargain between Church and State. But nothing of this kind ever took place in England. There was no moment when the nation or its rulers made up their minds that it would be a good thing to set up an Established Church, any more than there was a moment when they made up their minds that it would be a good thing to set up a government by King, Lords, and Commons. There are only two dates in our history when anything of the kind can be conceived to have happened. It must have happened either at the first preaching of Christianity or else at the Reformation. For the time when something more like it really did happen than happened at either of those times is not likely to come into people's heads. The time in our history when there was the nearest approach to such an act was at the Restoration of Charles the Second. Charles the Second and his Parliament did something which was more like "establishing" a Church than anything that any one had done before them. They did establish an ecclesiastical system by a single deliberate act. But the form which that act took, the revival of something old, something which

was held to have been illegally abolished, gives the act a different character. It differs from the *concordat* in France, because, though the latter was in a sense the re-establishment of an old Church, yet the form in which it was re-established was so different in all its temporal accidents from what it had been before its fall, that its restoration may be looked on politically as the establishment of something new. But in Charles the Second's time the legal doctrine was that the Church came back, just as the King came back, not by a new right but by an old one, just as if the laws had for a while been sleeping. And, after all, what had to be restored or re-established in Charles the Second's time was only the hierarchy, the Bishops, Chapters, and so forth. As we have already pointed out, the parish ministers, with their endowments and legal position, had gone on, and the actual incumbents at the return of Charles had the option of keeping their benefices by conforming to the new or restored laws.

The act of Charles the Second therefore, though it came more nearly to a deliberate act of "establishment" than anything else in our history, was not really a deliberate act of establishing a Church in the sense in which such an act is generally conceived. And it is quite certain that, when people talk of the Church as being "established" by an act of the State, when they talk of a bargain between Church and State, they do not conceive the event as happening in the time of Charles the Second. And if the

popular mind does not look for the act of establishment so late as the time of Charles the Second, still less does it go back for it to a time so early as the first preaching of Christianity in England. The popular notion clearly is that the Church was "established" at the Reformation. People seem to think that Henry the Eighth or Edward the Sixth or Elizabeth, having perhaps already "disestablished" an older Church, went on next of set purpose to "establish" a new one. They chose, it seems to be commonly thought, that form of religion which they thought best; they established it, endowed it, clothed it with certain privileges, and, by way of balance, subjected it to a strict control on the part of the State. When they might have established the Roman Catholic Church, or the Lutheran Church of Germany, or the Calvinist Church of Geneva, they devised, as became the sovereigns of an island realm, something different from the Churches of all other countries, and called into being the Church of England.

Now we must here again draw the same distinction which we drew at an earlier stage. We have nothing to do with theology, but only with history and law. Both strong Roman Catholics and strong Protestants might be willing, from their several theological positions, to accept the account which we have just given as no unfair description of the general results of the changes of the sixteenth century. But, as a matter of history and as

a matter of law, nothing of the kind ever happened. As a matter of law and history, however it may be as a matter of theology, the Church of England after the Reformation is the same body as the Church of England before the Reformation. The Roman Catholic may argue that, though there was no outward breach of continuity, though the old ecclesiastical corporations retained their legal rights, though bishops and priests and everything went on, yet the bishops and priests were no bishops and priests, the sacraments which they administered were no sacraments, because they had parted from that centre of unity which alone can give their acts any spiritual force. On the other hand, strong Protestants, who look on the essence of a Church as consisting rather in the profession of certain doctrines and the like than in any legal and historical succession, may say that everything was so thoroughly changed in the sixteenth century that what was done was really to destroy an old Church and set up a new one. These are alike purely theological views of the case with which we have nothing to do. We keep to the legal and historical succession, and we cannot, for our purpose, listen to purely theological arguments on either side.

Looking in this way at the events of the sixteenth century, it is certain that no English ruler, no English Parliament, thought of setting up a new Church, but simply of reforming the existing English Church. Nothing was further from the mind of either Henry

the Eighth or of Elizabeth than the thought that either of them was doing anything new. Neither of them ever thought for a moment of establishing a new Church or of establishing anything at all. In their own eyes they were not establishing but reforming; they were neither pulling down nor setting up, but simply putting to rights. They were getting rid of innovations and corruptions; they were casting off an usurped foreign jurisdiction, and restoring to the Crown its ancient authority over the State ecclesiastical. And, though we may say that practically their labours did come to setting up something new, such was not the legal aspect of what they did. There was no one act called "the Reformation;" the Reformation was the gradual result of a long series of acts. There was no one moment, no one Act of Parliament, when and by which a Church was "established;" still less was there any Act by which one Church was "disestablished" and another Church "established" in its place. As we said before, nothing happened to disturb the legal continuity of any ecclesiastical corporation except those which were suppressed altogether. Changes were made in the doctrine and in the discipline of the Church; some ecclesiastical corporations were abolished, others lost part of their wealth. The power of the Crown and of Parliament in ecclesiastical affairs was more fully recognized than it had been for many ages, though perhaps not more fully than it had been recognized in early times. In all that they did Henry and Elizabeth

had no more thought of establishing a new Church than they had of founding a new nation; for in their eyes the Church and the nation were the same thing.

It is hard now-a-days fully to take this in, because we have so long been used to see many religious bodies in the same nation. We are used every day to see a number of religious bodies, all of whose members have equal civil rights, all of which have their worship protected by law, but one of which is in an especial manner, both for favour and for control, connected with the civil government. We are apt to forget how this state of things came about. As we see at this moment one religious body which is "established," and several religious bodies which are not "established," there is the strongest temptation to think that that one was, at some time or other, picked out in some special way to be "established." A truer statement of the case is to say that the Established Church is a religious body which once was coextensive with the nation, but which has ceased to be so. The Established Church is "established," not because of any particular act of establishment at any particular time, but because it once was the nation. In early times the Church was simply the nation looked at with reference to religion, just as the army was the nation looked at with reference to warfare. The nation, in its civil, its ecclesiastical, and its military character, might have three sets of officers; but the body was the same in all three

cases. From the seventh century to the sixteenth this was the aspect of the State and the Church of England. The case was modified indeed through the claims to authority set up by the Popes, and through claims to exemption from ordinary jurisdiction set up by the native clergy. Both these claims gradually crept in, but both were always more or less strongly resisted. At last the reformers of the sixteenth century threw both aside as innovations contrary to ancient English law. In such a state of things as this there could be no question about establishment or disestablishment. The relations between the civil and ecclesiastical powers were not settled by any one formal enactment; they simply grew up and shaped themselves according to the circumstances of one age and another. One age might see some privilege conferred on the clergy, or on some class of the clergy; another age might see it taken away. The whole thing, in short, like everything else in this country, came of itself. The Church Establishment has just the same history as the House of Commons or as Trial by Jury. It is the creation of the law; but it is not the creation of any particular law, but of the general course of our law, written and unwritten. Take, for instance, the parliamentary position of the bishops. There was no particular moment when the nation thought that it would be a good thing to have bishops or abbots or other churchmen in the national assembly. They were not put there, either that they might represent ecclesiastical

interests or give information on ecclesiastical subjects, or because they possessed all the learning of the age, or because they held lands by a feudal tenure. All these are reasons invented afterwards to defend or to explain a practice of which most certainly none of them was the cause. Those reasons undoubtedly helped to enable the bishops and abbots to keep, along with the earls and barons, the right of personal attendance when other men lost it, but they were not the causes which gave them the right in the first instance. We might perhaps say that reasons of this kind led Charles the Second and his Parliament to restore to the bishops the seats in Parliament which the Long Parliament had taken away from them. But even then it would perhaps be truer to say that the bishops regained their seats, not out of any theory, but simply because they had held them before. Still in this, as in other matters, if we are to seek for any particular moment of establishment, it is at the Restoration that we shall find the thing which looks most like it.

The Church then was established, or more truly the Church grew up, because it was the nation in one of its aspects. The ministers of the Church were national officers for one set of purposes, enjoying the rights and privileges, and subject to the responsibilities, of national officers. The Church was strictly the nation. For many ages, from the time when the last man in Sussex or the Isle of Wight left off worshipping Woden till the time when the doctrines

of the Lollards began to spread, the question of toleration of different religious bodies in one nation was not a practical question. There were no Dissenters. Individual heretics were most rare; an heretical sect or community was unheard of. For two or three centuries there was a small class in the land who were not within the pale of the Church, but then they were not within the pale of the nation either. The Jew was always in danger of suffering from a popular outbreak; he was always in danger from the caprice of the King whose chattel he was; but he was not subject to anything which could be called religious persecution. Because he was no part of the nation, he could not be held to have rebelled against the Church; he was a stranger, both in blood and in religion, and, as a stranger, he was allowed a kind of contemptuous toleration till Edward the First sent him out of the land altogether. The heretic, that is the Christian who dissented from received doctrines, was in a worse case. The same principle which gave the Jew some of the privileges of a stranger made the heretic subject to the punishment of a domestic traitor; only for many ages heretics were so scarce that their treatment was hardly a practical question. When they did appear in the form of the Lollards, the impulse was to get rid of them, as of any other disturbers of the body politic, and all the more so, as their religious dissent was undoubtedly connected with political dissent. But, though the Lollards of the fourteenth and fifteenth

centuries were far more numerous than any doubters or deniers of received doctrines in earlier times, they were not numerous enough seriously to affect the identity of the Church and the nation. It was not till the sixteenth century that the consequences of difference in religion between men of the same nation became the great question of the time.

Then at last the fact that men might differ in religion fairly stared men in the face. But even then men still for a long time held that the Church and the nation ought to be one, that dissent in religion was a thing to be put down by law as much as sedition in politics. Toleration, in our sense of the word, was unheard of. It was held to be the duty of the civil power in each state to prescribe its own religion to its subjects. It was of course the duty of every government to prescribe only the true religion; different governments unluckily differed as to what was the true religion; but they allowed no difference on the part of their subjects. "Cujus regio ejus et religio." In Germany a religious peace meant that the several princes and commonwealths of the Empire might fix the religion of their own dominions. In France it meant that, in particular districts, towns, castles, where the Protestants were strong, they might practise a religion which it was hard to hinder them from practising. It nowhere meant the right of each man everywhere to follow what religion he chose. In our land, where union was so much closer and law so much stronger than

in Germany or France, it was a long time before any party grasped the notion that there might be two religions side by side, each protected by the State and the members of both of which might alike be orderly members of the commonwealth. Roman, Anglican, Puritan, all alike held it to be their duty, whenever they had the power, to establish their own system by law to the exclusion of all others. And this is beyond doubt the original meaning of the Church being "by law established." It does not mean, as the word is used now, an "Established Church," as opposed to some other religious body which is not "established." This is a sense which grew up later. The Church was "established," as any other of the institutions of the country were established. It was "established," just as government by King, Lords, and Commons was "established." It no more came into any man's head that there could be another Church, Popish or Puritan, alongside of the Anglican Church established by law, than that there could be another Government, despotic or republican, alongside of the limited monarchy established by law. It was the duty of the magistrate to enforce the law, and it was his duty to enforce the law about ecclesiastical matters as much as to enforce the law about any other kind of matters. If it was his duty to execute justice, it was also his duty to maintain truth. And, in the most zealous times of the sixteenth and seventeenth centuries, to maintain truth meant to burn Unita-

rians, to cut up Papists alive, and to clap Baptists and Independents in prison.

If we keep this in mind, we shall better understand the conduct of many men in the sixteenth century. We are apt to cry out that men must have been base and hypocritical time-servers, because they conformed to one religious change after another, because they sometimes kept on into the reign of Elizabeth ecclesiastical offices which they had received in the reign of Henry the Eighth. It may be granted that such men had not the spirit of martyrs; they were not like Taylor and Latimer on the one side, or like the Carthusian monks on the other. Or we may perhaps say that they did not think the points at issue worth going to the stake or the quartering-block about. They might have been ready to go there if, like the early Christians, they had been bidden to worship Jupiter, or if, like Daniel, they had been forbidden to worship any God at all. We are so accustomed to divide men by a hard line into Roman Catholics and Protestants, it seems to us so easy for a man to join himself to any religious body which he approves of, that we hardly understand the wholly different state of feeling in those times. Here and there was a man so zealous on one side or the other that he was ready to defy the law and to become a martyr to his own views of the truth. But the great mass of Englishmen were not in any strict sense either Roman Catholics or Protestants; they were men who were

ready to conform to the law in religious matters, just as they were ready to conform to it in other matters. One man thought that change had gone too far, another thought that it had not gone far enough, just as a man may in any other matter be called on to obey, and, if he holds any public office, to administer, a law which he would gladly see repealed or altered. One man was sorry to exchange the missal and the breviary for the new prayer-book; another thought that the new prayer-book had not departed nearly far enough from the missal and the breviary. But both alike conformed to the ritual of which they did not exactly approve, just as much as those who thought that the wisdom of King Edward or Queen Elizabeth had hit on exactly the right thing. Each conformed to what was established by law; each, no doubt, would have been glad to have had something else established by law; but for several years neither side thought of departing from what the law ordained. No party thought it possible to have two or three religious systems—two or three separate Churches—going on side by side. Each wished to model the one Church of the nation according to his own pattern; but for several years no party thought it its duty to set up a separate religious communion, merely because its own pattern was not exactly followed. Step by step parties split further asunder; men saw how irreconcilable their differences were; at last they thought it their duty to brave the law and to set up separate religious

communions of their own. Those who thought that change had gone too far, and who were willing to brave the law from that side, became "Popish recusants." Those who thought that change had not gone far enough, and who were willing to brave the law from that side, formed the first congregations of Protestant Dissenters. Another change came, and, during the Commonwealth and the Protectorate, those who clave to what had been a few years before by law established became separatists in their turn. Thus the result of differences in religion became a great and practical question. There were now several religious communions in the land. Step by step, those separate religious communions won for themselves, first, simple toleration, and then a full equality with those who adhered to the national religion. And then for the first time did the word *established* put on its present meaning. Hitherto the ecclesiastical constitution had been "established" simply in the same sense in which anything else ordained by law was established. Now the word gradually began to have its present technical meaning. It began to mean a religious body which stands in a special relation to the State, in distinction from those religious bodies which have gradually made their way through the stages of persecution and simple toleration up to the position which they now hold.

Establishment then, as applied to the religious body which once was coextensive with the nation,

but which now is so no longer, was no one act done at a particular time from definite motives. The Church establishment has grown up like everything else. It has come to be what it is through the circumstances of our history. Like everything else, it is subject to the law. The supreme power, on good cause being shown, may legislate about it in any way, as it has often legislated already. But the supreme power has the right so to do, not because of any particular bargain or agreement or special act of any kind, but simply because, being the supreme power, it has, within the limits which we spoke of before, the right to do anything. Whatever is the exact meaning attached to the word disestablishment, it means some change in the laws relating to ecclesiastical matters. Such changes, greater or smaller, may be made now, as they have often been made before. All that is needed is to make out a good case for such changes.

We have now perhaps done something to make it clearer what the real nature of the Church Establishment, as we now have it in England, is. If so, we shall be better able to ask more distinctly what is the exact meaning of the proposed disestablishment.

III.

By this time we may perhaps better understand what is the real nature of the process known as "disendowment;" what is the real nature of the "connexion between Church and State" in England, the "establishment" of the Church, as it is called. We have throughout been arguing against two classes of adversaries, against those who hold that ecclesiastical property and ecclesiastical matters generally are something too high and holy for the State to deal with, and against those who hold that the State has a special right to deal with ecclesiastical matters more than it has to deal with other matters. Both these opposite notions, it will be seen, start from the same principle. At the bottom of both lies the idea that ecclesiastical property and ecclesiastical matters of all kinds have some special character about them different from other property and other matters. This is a doctrine which may be theologically true, though men, and those not the least devout of men, have been found to call it in question. But we have nothing to do with its theological truth or falsehood. The temporal legislator cannot enter into such questions. He must look upon ecclesiastical property

and everything else that is ecclesiastical with the same eyes with which he looks upon all other things. A proposal to alienate ecclesiastical property, a proposal to transfer property from one ecclesiastical purpose to another, a proposal in any other way to alter the laws about ecclesiastical matters, must be judged by the legislator from one point of view only. Will it be for the common good of the country to make any change in these matters, or will it be better to leave them as they are?

Of disestablishment which carries disendowment with it we have seen an example in Ireland, though some have thought that the result has been unexpectedly favourable to the disendowed body. We have also heard of, but we have not seen, a process called disestablishment without disendowment. Let us first see what the results of this last would be. By disestablishment must be understood the repeal of all laws which, whether for purposes of privilege or for purposes of control, make any difference between the Established Church—that is, the religious body which once was coextensive with the nation—and those other religious bodies whose growth has caused it to be no longer coextensive with the nation.

The argument in favour of such a course would seem to be this:—As long as the Church was coextensive with the nation, it was no more than reasonable that the State should legislate about ecclesiastical matters in the same way that it legis-

lates about any other national institution. It was no more than reasonable that the members and ministers of the Church, that is, the nation and its office-bearers in its religious aspect, should enjoy such privileges and be subject to such control as the wisdom of the Legislature might from time to time think fit. But, now that the Church is no longer coextensive with the nation, now that it has ceased to be the nation in its religious aspect, now that it is only one religious body among many, there is, it may be argued, no longer any reason why it should enjoy any privileges which are not enjoyed by other religious bodies, or why it should be subject to any control to which other religious bodies are not subject. To carry out this rule we should have to repeal all laws by which the Established Church is recognized in a way in which other religious bodies are not recognized. The ecclesiastical coronation of the Sovereign must come to an end; the ruler of the whole nation must no longer even seem to be admitted to the royal office by the ministers of a religious body which forms only part of the nation. It is true that, ever since the rule has been laid down that the King has the same authority before his coronation as after it, the coronation has become a mere pageant. Still it is by no means an empty pageant, and it is a pageant in which, more almost than in any other way, the National Church is publicly recognized on the part of the nation. The obligation on the part of the

Sovereign to be in communion with what is now the Established Church must be taken away. And, if there is to be real religious equality, the restriction must be fairly taken away all round, and a Popish king must become lawful as well as an Independent or a Baptist king. It would seem also that the ecclesiastical element in the household of the Sovereign ought in consistency to come to an end. The king may doubtless have his chapel and his chaplains of any persuasion that he pleases, but they must no longer keep about them anything of the character of a public institution. The bishops must of course lose their seats in the House of Lords. Whatever was the way, as a matter of history, in which they came by those seats, those seats are now, as a matter of fact, a privilege belonging to ministers of one religious body which is not shared by the ministers of any other. Ecclesiastical courts, as courts possessing any coercive jurisdiction, must come to an end, and with them must come to an end the appeal from the ecclesiastical courts to the Privy Council. The disestablished Church would be able to exercise its discipline how it thought good, exactly as any other religious body does, subject to the general law of the land, and to that jurisdiction of the Courts of Law which is ever and anon called on to settle questions which arise in religious bodies about religious matters, but which the law looks upon only as questions of contract. The Act of Uniformity must of course be repealed. The Convocations of the two provinces

must be left as free as the Wesleyan Conference, free to take any shape that they please, free to decree what they please, so long as their decrees do not touch the civil rights of any man. The Crown must no longer have the appointment to the many ecclesiastical offices which are now in its gift, including that control over the election of bishops which is practically the same as a direct appointment. Whether all patronage, and especially all lay patronage, ought to cease is a very doubtful point. We here touch on a dangerous and difficult question; we have reached the border-land of disestablishment and disendowment. We must think for a moment what patronage is. As a matter of fact, patronage is valued because it practically amounts to a power of bestowing certain temporal possessions on any member of a large class of men, a power which has naturally found its money value. But in theory this power is only an accident of patronage. In his origin the patron was, as his name implies, the advocate, the champion, of the ecclesiastical corporation, sole or aggregate, which is under his patronage. The duties of the patron, which in troubled times were often difficult and dangerous, were rewarded by certain rights, the chief of them being some powers of selection or nomination over the body of which he was patron. In a state of things where law is supreme, the duties of patronage have passed away, but the rights remain. Those rights, in the case of an ordinary parish church, are not the direct bestowal of any office, still less the

direct bestowal of any property. An advowson is the right of the patron by which, on a vacancy of the living, he may present a clerk to the bishop. The bishop, if there is no manifest cause to the contrary, is bound to bestow institution to the spiritual office on the clerk so presented, and the clerk so instituted becomes possessed of the temporal benefice attached to the spiritual office. It is quite impossible that such a right as this could go on in a Church which is disendowed as well as disestablished; it is for those who argue that a Church can be disestablished without being disendowed, to say whether it can go on in a disestablished but not disendowed Church. But we may almost take it for granted that, in any case of disestablishment, all patronage must come to an end. It would be for the disestablished body to settle in what way its ministers should be appointed. Again, all laws must be repealed which treat the Church or its fabrics as national institutions. There could be no more questions about burial bills, about Dissenting churchwardens, and the like. Disestablishment, to be fair, must cut both ways. If it abolishes privilege, it must abolish bondage. If the Established Church is to become simply a "denomination," it must be as free as any other denomination, as free from the control or interference of any but its own members. And its members would now have to be defined in some way or other, like the members of other religious bodies. The fiction by which every man of the country is held to be a member of the

Church of the country, and to have rights as such, a fiction which is a survival from days when the Church and the nation were the same, must of course come to an end. Any privileges, any exemptions, any authority, and, on the other hand, any disabilities, which attach to the ministers or other officers of the now Established Church, and which do not attach to the ministers or other officers of other religious bodies, must be abolished. The rector or vicar must no longer be *ex officio* chairman of the parish meeting; the churchwarden must no longer be *ex officio* overseer; on the other hand, episcopal holy orders must be no longer a bar to a seat in the House of Commons any more than the ministerial office in any non-episcopal religious body. An archangel has before now been an M.P., and a disestablished archbishop must be allowed to be an M.P. also. Lastly, there must be no payments out of public funds, out of taxes or rates, for any religious purpose. There must be no such thing as a chaplain of a ship or of a regiment, of a gaol, an asylum, or a workhouse, or of the House of Commons itself. This last provision comes under the head of disestablishment, not of disendowment. For an endowment implies a permanent fund, such as corporate or trust property. The mere voting of salaries cannot be called endowment, and the voting of salaries for religious purposes out of public money of any kind is an act of the same nature as any of the other acts which come under the notion of establishment.

These, or something like these, are the changes which would have to be made in order to disestablish the now established Church, in order at once to deprive it of the State privileges, and to set it free from the State control, which distinguish it from other religious bodies. No doubt many questions of detail may be raised; some may think that all these changes would not be needful; others may think that some further changes would be equally needful. All that we wish to do is to point out generally the kind of changes which would seem to be implied in the notion of disestablishment. The one essential thing is that disestablishment should cut both ways; that, while it cuts away every shred of special privilege, it should also cut away every trace of special control. Of course, as we have said over and over again, Parliament may do anything; all that we say is that something like what we have just sketched seems to us to be the reasonable thing for Parliament to do, if disestablishment should ever be determined on.

Now there are those who argue that there may be disestablishment without disendowment, and in the abstract they are perfectly right. All that we have sketched out might be done without touching a penny of the endowments of the Church. Even if the notion of disestablishment, simply as disestablishment, should be pressed to the extremest point, all that it would demand in the way of confiscation or disendowment would be the surrender of such parts

of the property of the Church as have come from direct parliamentary grants. Some churches have been built, some livings have been increased, out of money voted by Parliament. But it would seem a more reasonable view to hold that a parliamentary grant, when once made, is like any other grant, that money voted once for all by Parliament for an ecclesiastical purpose is like money or lands voted by Parliament to a successful general. Both come under the general power of Parliament to do anything, but in neither case need any special power of resumption be supposed. Setting these cases aside—and they make up a very small part of the actual property of the Church—the endowments of the Established Church rest on exactly the same ground as the endowments of Dissenting bodies. People sometimes forget that there are such things as Dissenting endowments. But, though they are not of any very great amount, and though of course they cannot be of any very ancient date, there are such things, and, where they exist, the law protects them. Now the difference between these endowments and the endowments of the Church is simply this, that the endowments of the Church are much greater in extent, and the mass of them are much older in date, than the endowments of Dissenting bodies. All alike are gifts made by different persons at different times, in ways which the law allowed at the time when they were given. All alike are lawful property which the law protects, but with all of which alike the supreme

power of the country can at any time deal as it thinks good. The difference that the mass of Church property is held by corporations, sole or aggregate, while Dissenting property is held by trustees, is a mere legal subtlety as to the kind of tenure; the law protects one tenure just as much as the other. Still we have no doubt that many people think that Parliament has some right to touch the lands of the archbishopric of Canterbury while it has not the same right to touch the trust funds of a Dissenting chapel or college. We answer that it has the same right over both. As Parliament may do what it pleases, it may, on just cause being shown, touch one as much as the other. The only difference is that it is far more likely that just cause should be shown in the case of the archbishopric than in the case of the college or chapel. Arguments, we do not say sound, but certainly plausible, arguments which at least deserve an answer, may be brought to show that the general good would be promoted if the Archbishop of Canterbury held a different temporal position from what he now holds. One can hardly conceive that the other class of endowments can so affect the general good as to call for the special interference of the State. But if such a case should happen, the confiscation or other disposal of such trust funds would be an act of exactly the same kind as the confiscation or other disposal of the lands of the archbishopric. The State has no right over the one which it has not equally over the other.

It is therefore perfectly possible in idea to have disestablishment without disendowment. It would be perfectly possible to deprive the Established Church of all special privileges granted by the State, to relieve it from all special control on the part of the State, but at the same time to leave it, like other religious bodies, in the possession of all its endowments. It would be quite possible to have several religious bodies in the country, all holding exactly the same position in the eye of the law, all protected by the law in the possession of any endowments which they may have, but one of which should have endowments very much greater than any of the others. But what would be the effect of so doing? It would simply be to set the Church free from State control, and to leave it in possession of all the power and influence derived from property. The zealot for ecclesiastical rights would gladly purchase the vast gain which he would get by such an arrangement at the cost of the very small sacrifice which he would have to make. The bishop would lose his temporal rank, but the parish priest would lose nothing that is worth keeping. The whole ecclesiastical body would be able to do whatever might be right in its own eyes. The great question would be whether it would seem right in the eyes of the ecclesiastical body to remain one ecclesiastical body. The chances are that there would be schisms without number. In an Established Church the law protects every shade of opinion which does not break the law; and the slow-

ness, costliness, and uncertainty of the law often make it hard to deal even with those who do break it. The history of ecclesiastical synods in all ages shows that they would find out sharper and quicker courses. As it is, setting aside extremes in any direction, it is plain that in the Established Church several very different schools of thought can go on side by side, each working in his own way, each bringing out some special element of good, with a fair amount of harmony among them. One may be quite sure that, if the Church were set wholly free from State control, changes would be made in one way or another which would make it far harder than it is now for men of these different schools of thought to work together. Such a state of things would be sure to follow on disestablishment in any shape, but it would be ten times worse if there were disestablishment without disendowment. For it is only in human nature that men should be in some degree swayed by temporal motives. Disestablishment without disendowment would really come to this, that the temporalities of the Church would be put up to be fought for by contending theological parties.

Even setting this fear aside, disestablishment without disendowment would seem to be a very dangerous experiment. Most practical men will be inclined to think that, if disestablishment is to be, disendowment must follow. Then comes the question whether such disendowment should be total. Many people have a not unnatural shrinking from

confiscating endowments which have been given very lately, while they have no shrinking from confiscating endowments which are of ancient date. But the distinction is one purely of sentiment, not of principle; and there are other people with whom sentiment would tell more strongly on behalf of the ancient endowment than on behalf of the modern one. Be an endowment ten years old or a hundred or a thousand, its nature is exactly the same. However old or however new it is, it ought not to be touched lightly or rashly; but, however old or however new it is, the supreme power may touch it, if there be a good reason for so doing. There lies the whole question. Would a change of so great and sweeping a kind, a change which would touch so many interests and associations, really be for the public good or not? Would it be for the public good that the Established Church of England should be stripped of all privileges which are not shared by other religious bodies, and set free from all control which it had exercised over religious bodies, and withal, that all the ministers of the Church, from the archbishop to the minor canon, should lose—probably with the reservation of "vested interests"—their corporate property? Is good ground shown, or is it not shown, for so great a change in the condition of England as this?

This question we are not now going to argue; we are merely trying to make it plain what the question really is. We do indeed assume that, if

there be disestablishment, disendowment must follow; that is all. Otherwise our object throughout has been rather to clear the way for argument than to argue. But one or two cautions must be given. The question is eminently a practical one, and it cannot be dealt with according to mere abstract theories. It is one of those cases in which it is a great argument in favour of an institution that it exists. It is not enough to show that some other system may be theoretically better, or to point to some country where another system is thought to be in some points more successful. To tear up by the roots any part of those institutions of an old country which have grown up with it from the beginning, which have become part of its very being, is in itself an evil. Before such a course is taken it must be shown, not only that the proposed change would be an improvement in itself, but that it would be so great an improvement as to counterbalance the evil involved in the very process of change. We often act wisely in preserving institutions which we should never think of setting up for the first time in their present state. It does not at all follow that, because it would be undesirable to set up an Established Church in a new colony or in the United States, it is therefore desirable to pull down the Established Church in England. The case is just the same with this question as with hundreds of other questions of the same kind. A man may think that a republic is in itself better than a monarchy, but he would not

be bound by this ideal preference to try to set up a republic in England. A man may think a monarchy in itself better than a republic, but he would not therefore be bound to try to set up a monarchy in Switzerland or America. In all cases of change, especially in so great a change as this, there is a great deal more to be thought of than merely whether the proposed change would ideally be an improvement.

Lastly, an argument which was formerly used one way seems now to be turned about and used the other way. When the question of disestablishment in Ireland was under debate, the defenders of the then Established Church argued on its behalf that, if it were disestablished, we ought to disestablish the English Church also. Now we are sometimes told from quite the opposite side that the disestablishment which has happened in Ireland is a precedent which we ought in consistency to follow in England. But in truth consistency has nothing to do with the matter. Many, perhaps most, of those who supported disestablishment in Ireland did so, not because they had any theory against Established Churches in general, but because they held that the Established Church in Ireland was a great practical evil. There is no inconsistency in holding that the Established Church in Ireland was a great practical evil, and yet in holding that the Established Church in England is a great practical good. We are not now going to argue the point; all that we say is that the circum-

stances of England and Ireland are so manifestly unlike that there is no inconsistency in holding that an institution which was an evil in the one country may be a good in the other.

In a word, it is for the advocates of disestablishment to make out their case. They must show that the Established Church is the cause of evils to the country so great as not only to outweigh any advantages of which it may be the cause, but also to outweigh the evils inherent in so great a change, a change affecting so many interests and rooting up so many associations. They are entitled to a fair hearing on this ground, and their adversaries are entitled to a fair hearing equally. All that we ask is that the question may not be clouded over by prejudices and misconceptions on either side, by talk about "sacrilege" on one side or about "national property" on the other.

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